

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BAO XUYEN LE, INDIVIDUALLY, and as the
Court appointed PERSONAL
REPRESENTATIVE OF THE ESTATE OF
TOMMY LE, HOAI "SUNNY" LE, Tommy Le's
Father, DIEU HO, Tommy Le's Mother, UYEN
LE and BAO XUYEN LE, Tommy Le's Aunts,
KIM TUYET LE, Tommy Le's Grandmother, and
QUOC NGUYEN, TAM NGUYEN, DUNG
NGUYEN, JULIA NGUYEN AND JEFFERSON
NGUYEN, Tommy Le's Siblings,

Plaintiffs,

vs.

MARTIN LUTHER KING JR. COUNTY as a sub-
division of the STATE of WASHINGTON, and
KING COUNTY DEPUTY SHERIFF CAESAR
MOLINA,

Defendants.

No. 2:18-CV-00055-TSZ

STIPULATION AND ORDER RE:
DISCOVERY EXAMINATION AND
CHAIN OF CUSTODY PROCEDURE

STIPULATION

IT IS HEREBY STIPULATED between the plaintiffs and Defendant King County,
parties to the above-entitled action, by and through their respective attorneys of record that the
following items of evidence will be made available for release from the custody of the King
County Sheriff's Office by King County Detective Christopher Johnson to Sierra Landholm for
STIPULATION AND ORDER RE: DISCOVERY
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PROCEDURE [2:18-CV-00055-TSZ] - 1

Daniel T. Satterberg, Prosecuting Attorney
CIVIL DIVISION, Litigation Section
900 King County Administration Building
500 Fourth Avenue
Seattle, Washington 98104
(206) 296-0430 Fax (206) 296-8819

1 transmittal to Dale C. Mann, ESI, 700 South Industrial Way, Seattle, WA 98108, an expert
2 identified by the plaintiffs, for the purpose of non-destructive testing, examination, and analysis.

3 The parties stipulate that upon release of the following items of evidence to Sierra
4 Landholm, the items will be transported by the plaintiffs to Dale Mann by Fed Ex overnight
5 shipment with return receipt signature documentation. The parties stipulate that immediately
6 upon completion of the nondestructive testing, examination, and analysis by plaintiffs' expert,
7 Dale C. Mann will return the following physical items of evidence directly to Sierra Landholm
8 by Fed Ex overnight shipment with return receipt signature documentation and Sierra Landholm
9 will return all of the following items of evidence directly to Detective Christopher Johnson with
10 the King County Sheriff's Office with all return receipt signature documentation. Sierra
11 Landholm will work directly with Detective Christopher Johnson of the King County Sheriff's
12 Office to arrange a reasonable time schedule for the release and return of all of the following
13 items of evidence.

14 The parties agree that the transfer and testing of the following items of evidence from the
15 King County Sheriff's Office to plaintiff's expert, Dale C. Mann, will not interrupt the chain of
16 custody of these physical objects and will not affect the admissibility of any of the items on that
17 basis. All parties stipulate that the below listed items are physical objects that were recovered at
18 the time of the autopsy, were preserved and maintained in an unbroken chain of custody, and will
19 remain in an unbroken custody despite this transfer and testing and the items subsequent return
20 to the King County Sheriff's Office. The parties also agree that the transfer and testing of these
21 physical objects must allow the items to remain in substantially the same condition as when the
22 autopsy occurred.

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1 The evidence listed below and subject to this Stipulation will be handled and inspected
2 for the following nondestructive testing, examination, and analysis as requested by the plaintiffs:

3 1. Evidence item number 57430 – swabs of right 4th and 5th digits taken from Tommy Le
4 during autopsy at King County Medical Examiner’s Office, to be conducted by Dale C. Mann,
5 ESI, 700 South Industrial Way, Seattle, WA 98108. The swabs will be examined/documentated
6 non-destructively using microscopic methods at 10-400X magnification. Following the
7 microscopic exam, a small sub-sample from each swab will be extracted and analyzed using
8 GC/MS, FTIR and SEM/EDS. Following the testing, the extracts (one from each item) will be
9 archived and returned with the original item. The amount of extracted material will be minimal,
10 with sufficient unextracted material remaining in the submitted items to repeat the analysis many
11 additional times. This methodology is considered to be non-destructive.

12 Plaintiffs will be responsible for payment for the testing, examination and transport of the
13 items from the King County Sheriff’s Office to their investigator/paralegal and to their expert,
14 Dale Mann, and from Mr. Mann to their investigator/paralegal and to the King County Sheriff’s
15 Office to return the items. Plaintiffs will provide Mr. Mann with a copy of this stipulation and
16 will confirm that Mr. Mann will abide by the terms of this stipulation prior to the release of the
17 items. Plaintiffs or Mr. Mann will provide counsel for King County and Cesar Molina copies of
18 any final reports generated together with any supporting photographs and testing done by Dale
19 Mann in the course of his examination and testing. The agreement of the parties for the
20 plaintiffs’ expert to perform his own inspections will not affect the admissibility of any prior
21 testing by the Washington State Crime Lab or King County Sheriff’s Office should the items be
22 destroyed, lost or altered in any way through the examination by Mr. Mann or the transmittal of
23 the evidence items. Further, this agreement does not limit the legal recourse of any party should

1 the items of evidence be destroyed, lost or altered in any way in the testing, examination or
2 transport of them under this Stipulation.

3 Note: Defendant Cesar Molina is not a party to this stipulation.

4 DANIEL T. SATTERBERG
King County Prosecuting Attorney

5 By: s/Philip G. Arnold
6 PHILIP ARNOLD, WSBA #2675
Attorney for the Plaintiffs

By: s/ Kathy Van Olst
DANIEL KINERK, WSBA #13537
KATHY VAN OLST, WSBA #21186
Attorneys for Defendant King County

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9 **ORDER**

10 THIS MATTER having come on regularly for hearing upon the foregoing stipulation of
11 the Plaintiffs and defendant King County hereto, and the court being fully advised in the
12 premises, now, therefore, it is hereby,

13 ORDERED, that the above-entitled stipulation is GRANTED. It is further ORDERED
14 that all procedures set forth in the Stipulation must be followed.

15 DONE IN OPEN COURT this ____ day of _____, 2019.

16
17
18 _____
Honorable Thomas S. Zilly

19 Presented by:

20 DANIEL T. SATTERBERG
King County Prosecuting Attorney

21 By: s/Philip G. Arnold
22 PHILIP ARNOLD, WSBA #2675
Attorney for the Plaintiffs

By: s/ Kathy Van Olst
DANIEL KINERK, WSBA #13537
KATHY VAN OLST, WSBA #21186
Attorneys for Defendant King County

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